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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 110707371–2136–02]

RIN 0648–BB28

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Specifications and Management Measures; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: This action corrects an omission in the regulatory text in the final rule for 2012 Specifications for the Atlantic Mackerel, Squid, and Butterfish fisheries.

DATES: Effective April 20, 2012.

FOR FURTHER INFORMATION CONTACT: Aja Szumylo, Fishery Policy Analyst, 978-281-9195.

SUPPLEMENTARY INFORMATION:

Background

The final rule to implement 2012 specifications and management measures for the Atlantic mackerel and squid fisheries, and the interim final rule to implement 2012 butterfish fishery specifications was published in the Federal Register on March 21, 2011 (77 FR 16472). This action established catch levels for the 2012 fishing year for mackerel and butterfish, established catch levels for the 2012-2014 fishing years for longfin squid and Illex squid, and

includes minor adjustments to management measures for the mackerel and longfin squid fisheries. Details regarding the measures in the 2012 specifications are in the final rule and are not repeated here.

Need for Correction

One of the management measure adjustments for mackerel provides that the commercial mackerel fishery be closed when 95 percent of the commercial quota (domestic annual harvest or DAH) has been caught. While the final rule revised the regulatory text regarding closures of the commercial fishery at 50 CFR 648.24(b)(1) to reflect this adjustment, regulatory text at § 648.26 also includes references to the former closure threshold (90 percent) and was inadvertently not updated to reflect the change. This correction adjusts the regulatory text at § 648.26(a) to reflect the new 95-percent closure. If left uncorrected, the regulations at § 648.26(a) would not match the adjustment to the closure threshold implemented in the final rule at § 648.24(b)(1), and may be confusing to the public. This correction does not change the intent or application of the measures described in the proposed and final rule.

Classification

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause under 5 U.S.C. 553(b)(B), to waive the requirement for prior notice and opportunity for public comment for this action because notice and comment would be unnecessary, impracticable, and contrary to the public interest. Notice and comment are unnecessary, impracticable, and contrary to the public interest because this action simply makes the text of the codified regulations consistent with the text in the final rule, and makes corrections to accurately reflect the intent of the final rule. This correction eliminates inconsistencies between the regulatory text contained in the final rule and the codified regulations, and therefore eliminates any confusion that the inconsistency might

create for the public. No aspect of this action is controversial and no change in operating practices in the fishery is required from those intended in the final rule.

For the same reasons, pursuant to 5 U.S.C. 553(d), the AA finds good cause to waive the 30-day delay in effective date. If this rule is not implemented by April 20, 2012, the public will have conflicting information regarding the closure threshold used to close the mackerel fishery once the quota has been attained, which will cause confusion and would be inconsistent with the final rule.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. are inapplicable.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 17, 2012.

Samuel D. Rauch III,
Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 648 is corrected by making the following correcting amendments:

PART 648 – FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 648.26, paragraphs (a)(1)(i) through (iii) are revised to read as follows:

§ 648.26 Mackerel, squid, and butterflyfish possession restrictions.

(a) Atlantic mackerel. (1) A vessel must be issued a valid limited access mackerel permit to fish for, possess, or land more than 20,000 lb (9.08 mt) of Atlantic mackerel from or in the EEZ per trip, provided that the fishery has not been closed because 95 percent of the DAH has been harvested, as specified in § 648.24(b)(1)(i).

(i) A vessel issued a Tier 1 Limited Access Mackerel Permit is authorized to fish for, possess, or land Atlantic mackerel with no possession restriction in the EEZ per trip, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours, provided that the fishery has not been closed because 95 percent of the DAH has been harvested, as specified in § 648.24(b)(1)(i).

(ii) A vessel issued a Tier 2 Limited Access Mackerel Permit is authorized to fish for, possess, or land up to 135,000 lb (61.23 mt) of Atlantic mackerel in the EEZ per trip, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours, provided that the fishery has not been closed because 95 percent of the DAH has been harvested, as specified in § 648.24(b)(1)(i).

(iii) A vessel issued a Tier 3 Limited Access Mackerel Permit is authorized to fish for, possess, or land up to 100,000 lb (45.36 mt) of Atlantic mackerel in the EEZ per trip, and may

only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours, provided that the fishery has not been closed because 90 percent of the Tier 3 allocation has been harvested, or 95 percent of the DAH has been harvested, as specified in § 648.22(b)(1)(i) and (ii).

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